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United States Court of Appeals
Ninth Circuit

UNITED STATES OF AMERICA" aka "Evan) Civil docket #15-16721
Moses, et al.,) Motion to strike brief
petitioner,)
vs.)
James Witt,)
alleged respondent)

Now Comes James Witt, who moves this court to strike the brief filed by Jennifer Rubin for containing deliberate misrepresentations and typical trash from the US attorney's office. The brief is not only lacking in merit, but over twenty pages longer than necessary if dealing with truly "frivolous" arguments.

The brief is the usual copy and paste garbage from the US attorney's office, lies, prejudicial opinions and completely lacking in evidence to support their opinion the laws apply to me because I'm physically in California. Rubin demands the court hold me to a standard of proof while reveling in the fact the court refused to hold her and her accomplices to the same standard. A standard I met ironically. Grounds are further set forth below.

1. Familiar "taxpayer" mantra. The magical incantation that if you refer to someone as a "taxpayer" enough times then your laws magically apply without the usual burden of needing proof. I can refer to Moses as a thief/fraud myself and the judge as accomplice, without proof it's just an accusation (unlike Rubin I actually have proof). But, call yourself a "government," and just words

are enough (well with coercion and prisons it is). The criminal Moses, is addressed by his name while I'm accused of being a "taxpayer" 84 times in less than 21 pages. Rubin is capable of using names. It's like Michael Scott thinking if he says manager enough, he'll be picked as manager. Even people convicted of rape are not referred to as rapists in pleadings.

And this is an issue of fact, it's not an issue of law such as people arguing they are not taxpayers within meaning of statute. They're not the same thing regardless of how many times they are deliberately conflated by dishonest US attorneys like Rubin.

2. Nothing frivolous but Rubin's brief. Arguments are only frivolous if it requires no demonstration to show it's erroneous. If an issue of fact is raised, it can only be defeated by providing the evidence. If so, that makes it incorrect, not frivolous. It appears the US attorney is paid by the number of times they can use taxpayer and frivolous.

Obvious bias. Any argument that after spending years with the US attorney's office one can just shed their pro-government bias by putting on a black robe is frivolous. No rational adult would claim strong biases are dropped when one changes position on the same team.

Judge Boone/O'Neil showed extreme political bias, typical for a (former) US attorney, when they just assumed the claim was true. So irrefutably so, just my questioning legal conclusions is deemed "frivolous."

Also, the burden is not on me to show evidence political rules do *not* apply, Moses and his attorneys bear the burden of showing evidence, not opinion, argument and endless chants of "frivolous", their claim is true, they did not do that. I still met the burden when Moses admitted he was not qualified to discuss the evidence his claims were based. The petition against me is devoid of any evidence against me, only what Rubin admits is not sufficient, "The showing must be more than

[I]legal conclusions[,] mere memorandum of law...or allegations." Rubin page 23. Rubin fails to understand the only relevant opinions are Moses's and he admitted to not being qualified.

3. No evidence of a legal right. A legal right created against me from what/where/when? A document from 1787? Exactly how does a document apply to me just because I'm physically in California? Is it magic? Because people are coerced to pay? Maybe it's the line used by prosecutors: Our laws apply to you because we put other people in prison?

Moses only possesses a "legal right" if there is evidence the rules apply to me, there is none. It is speculation at best. By Rubin's own admission, legal conclusions and opinions are not sufficient. It doesn't matter what the "laws" say until there is evidence they apply.

All involved just assume the laws apply. Why? Because they profit from it. I have heard them say when confronted (this is why cross-examination is routinely denied): "[our] laws apply because they say so." That's not evidence or an argument, it's circular logic. Coercing people to pay you means never have to have evidence to support your claims.

4. Not a "naked denial." The fraud Rubin lies claiming I made a "naked denial" of jurisdiction. I submitted an affidavit of the call with fraud Moses where he admitted to not being qualified and could not provide a shred of evidence to support his legal conclusions in his affidavit. Moses knew he had no evidence, but sought a coercive order against me anyway. That is criminal behavior, but when conducted by the IRS, the US attorney and the magistrates (former US attorneys) turn a blind eye, doesn't matter what Moses did is a felony by your own laws, 18 USC 1001.

Moses did not refuse the answer the questions of evidence, he admitted he was not qualified. He then lied claiming we could speak with him and his attorney about the evidence. Refusing to answer is not the same as not being able to answer. If one doesn't have evidence, then they cannot provide them when questioned.

Even if nothing required the criminal (Moses) to discuss the facts (good faith does), his admission impeached his testimony. Also, due process requires a cross-examination, especially when, as here, the criminal (Moses) lied when he stated we could discuss the evidence with his attorney.

Rubin lied writing that I offered no evidence. Well, let's say I have evidence, but I'm not qualified to discuss it. Then I never do. Would that satisfy Rubin? Will federal judges now see me as credible like they did for Moses? I provided statements of fact that would have been easily verified at the show cause hearing. But that was cancelled. Why not charge me with perjury for a false affidavit? Moses is a criminal and Boone cancelled the show cause to deliberately deny me cross-examination. A cross where Moses would have been just as unable to provide evidence.

5. Another lie from Rubin. On page 19, the fraud Rubin lies again claiming I didn't deny the district court lacked jurisdiction. This is false as I challenged the criminals from the US attorney of having no evidence supporting their claims the laws apply to me just because I'm physically in California. It is a deliberate misrepresentation of the facts by the fraud Rubin.

With irony, the criminal Rubin wants to apply a standard to me, but not the fraud Moses, his previous attorney or Rubin herself. On page 23 the fraud Rubin writes, "The showing must be more than '[l]egal conclusions[,] mere memorandum of law...or allegations.'" This is exactly what the criminals (Moses, Montoya and Rubin) have put forth against me.

The following is a list of Rubin's claims, they are all legal conclusions, memorandum or allegations, none of them have any relevance to me:

1. Congress has broad powers... page 13, legal conclusion.
2. Congress has conferred upon the Sec....page 15 Treasury...authority...legal conclusion.
3. The Commissioner...has the duty...legal conclusion.
4. Congress provided...Section 7602...authorizes...legal conclusion.
5. "The Supreme Court['s opinion] has made clear...page 16 legal conclusion.
6. Viewtech v. US...page 16 Obviously just legal opinions/conclusions.

7. Where a party fails...I.R.C. Section 7604...page 16 legal conclusion.
8. Powell quotes, US v. Noall, page 17 all legal opinions/conclusions.
9. Once the Gov't has made it's *prima facie*...page 17 legal conclusion,
10. That I am a taxpayer/resident, legal conclusions and allegations.

This is fraud's (Rubin) entire case, and it's nothing but legal conclusions, not a shred of evidence proving any *relevance* to me. If the judges applied the standards equally, that mere '[l]egal conclusions[,] mere memorandum of law...or allegations" are not sufficient, then the US attorney would have been laughed out of court.

Also, if I claimed a two-hundred year old document my great-grandparents wrote gave me a right to investigate and order around Moses and Rubin, then I'd be declared insane. If I tried to use coercion against them (like they are doing to me), I'd be killed. Yet, when I challenge Moses and his criminal attorneys, it's labelled as "frivolous."

The best the criminals of the IRS and US attorney's office can do, is to say it applies because some lawyers said so. You cannot make a *prima facie* case with nothing more than "[l]egal conclusions[,] mere memorandum of law...or allegations." But this is not about fairness, it's about covering for criminals.

If I forced strangers to give me money, then all would agree that I'm a criminal. But when Moses, Rubin, Boone et al., do it, they are not? Bull, you are criminals to rational adults who refuse to accept such double-standard, those who use reason and logic, not coercion and prisons. "But we have the law!" you may cry in defense. No, you have no evidence because forcing people to pay you makes you a criminal, it doesn't make a two hundred year old document apply to anyone.

I'm falsely accused of being a taxpayer, or resident, the laws apply to me because I'm physically in California etc. Such opinions are treated as irrefutable, that just asking for the evidence is enough for the frivolous mantra to start, the endless shouting "Frivolous!" from the rooftops. Treating the

claim as irrefutable is unfair and evidence of a rigged game. Only those, like Rubin, who profit from it, think it's fair.

6. Bad faith proven. When you have no evidence to support your legal conclusions, memorandum of law and allegations, then you're acting in bad faith. That is why the show cause hearing was cancelled, to prevent the fraud Moses from having to testify to his lack of evidence and his lying about speaking with his accomplice Montoya.

Any rational adult will agree, using coercion, threats of imprisonment, to get your way with peaceful people is not only bad faith, but criminal and possibly psychopathic in nature.

By swearing the affidavit, Moses committed perjury. Doubling down on this, the US attorneys sent me false claims through the mail. Perjury certainly is bad faith.

The perjurer Moses did not "reasonably" believe (Page 18) I was within his pretended "jurisdiction" as he admitted he was not qualified to discuss the facts his own claims were based. Lucky for Moses he had Boone and O'Neil protect him from confrontation.

Conclusion. To this day those acting against me have not produced a shred of evidence to support their claim their rules ("laws") apply to me because I'm physically in California. As Rubin agrees, "[l]egal conclusions[,] mere memorandum of law...or allegations" are not sufficient.

Calling me a taxpayer/resident 1000 times and threatening me with jail will not overcome their lack of evidence or magically turn their legal opinions into facts.

Based on the foregoing, the brief should be stricken. This court should require Rubin to provide where in the record facts, not legal opinions, but relevant facts were provided proving the laws apply to me just because I'm physically in California. All Rubin and her accomplices have are legal opinions, see page four herein.

Submitted this 15TH day of April 2016.

James Witt
James Witt

Certificate of service

This is to certify that a true and correct copy of the foregoing has been mailed this 15th day of April 2016, to the plaintiff at the following address:

Jennifer Rubin
PO Box 502
Washington DC 20044

James Witt